

Auditing of Electronically Filed Statements and Reports

Bill Proposal:

Amend Government Code sections 90000 and 90003 to require audits to cover reports and statements that are filed electronically.

Problem:

The mandatory audit provisions of the Political Reform Act (Act) contained in Government Code sections 90000-90007 require the Franchise Tax Board (FTB) and the Commission to audit reports and statements filed under “Chapters 4 and 6 of the title” (sections 90000(a) and 900003). Chapters 4 and 6 contain the campaign and lobbying disclosure provisions of the Act.

Proposition 34, as passed by voters, became effective January 1, 2001, and added many new provisions to the Act, primarily in Chapter 5. Included in these new provisions are new electronic reporting requirements not found anywhere else in the Act. Specifically: (1) section 85309, subdivisions (a) and (b) require online/electronic disclosure of contributions, of \$1,000 or more, received by candidates and ballot measure committees during the 90 day period preceding an election; (2) section 85310 requires a person making a payment of \$50,000 or more for a communication that does not contain express advocacy, but which identifies a candidate, to make online/electronic disclosure of the payment; (3) section 85500 requires online/electronic disclosure of independent expenditures of \$1,000 or more in connection with a candidate for elective state office made during the 90 day period preceding an election; and (4) section 85309, subdivisions (c) and (d), as recently added by Senate Bill 34, require online/electronic disclosure of contributions of \$5,000 or more received by candidates and ballot measure committees at any time other than the 90 day period preceding an election.

When future mandatory audits are conducted by the Franchise Tax Board and the Commission, compliance with these new electronic reporting provisions by candidates and committees will not be a part of the scope of the audit because the reporting requirements originate in Chapter 5, not 4 or 6.

How this bill would address the problem:

The bill adds references, where appropriate, to Chapter 5 of the Act.

NOTE: The Commission has approved this proposal in the past for Commission-sponsored legislation.

Bill Language:

Amend sections 90000 and 90003 to read as follows:

§ 90000. Responsibility.

“Except as provided in ~~Section~~ section 90006, the Franchise Tax Board shall make audits and field investigations with respect to the following:

- (a) Reports and statements filed with the Secretary of State under Chapters 4, 5 and 6 of this title.
- (b) Local candidates and their controlled committees selected for audit pursuant to subdivision (i) of ~~Section~~ section 90001.”

§ 90003. Discretionary Audits.

“In addition to the audits and investigations required by ~~Section~~ section 90001, the Franchise Tax Board and the Commission may make investigations and audits with respect to any reports or statements required by Chapters 4, 5 and 6 of this title.”